

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 08 April 2008

**CASE NOS: 2007-STA-35
2007-STA-36**

IN THE MATTER OF

**PATRICK NORTON,
Complainant**

v.

**UNIGROUP, UNITED VAN LINES and
JOHNSON CHERRY CREEK LLC dba Johnson Storage & Moving
Respondents**

**RECOMMENDED ORDER APPROVING
SETTLEMENT AGREEMENT**

These consolidated cases arise under Section 405, the employee protection provision, of the Surface Transportation Assistance Act of 1982, 49 U.S.C.A. § 31105 (West 2003), and the implementing regulations at 29 C.F.R. Part 1978. Following a denial of the claims by OSHA an appeal was filed and the claims were scheduled for formal hearing before the Office of Administrative Law Judges; however, the parties have now filed a request for approval of their settlement agreements and dismissal of the complaints with prejudice.

Pursuant to Section 31105(b)(2)(C) of the Act, “[b]efore the final order is issued, the proceeding may be ended by a settlement agreement made by the Secretary, the complainant, and the person alleged to have committed the violation.” Under regulations implementing the STAA, the parties may settle a case at any time after the filing of objections to the Assistant Secretary’s findings “if the participating parties agree to a settlement and such settlement is approved by the Administrative Review Board. . . .or the ALJ.” 29 C.F.R. §1978.111(d)(2). Under the STAA a settlement agreement cannot become effective until its terms have been reviewed and determined to be fair, adequate,

and reasonable, and in the public interest. *Tankersly v. Triple Crown Services, Inc.*, 1992-STA-8 (Secy Feb. 18, 1993). Consistent with that required review, the regulations direct the parties to file a copy of the settlement “with the ALJ or the Administrative Review Board as the case may be.” *Id.*

I have reviewed the parties’ settlement agreements and have determined that they constitute a fair, adequate and reasonable settlement of the complaint and are in the public interest. Pursuant to 29 C.F.R. § 1978.109(c), however, the Administrative Review Board must issue the final order of dismissal of a STAA complaint resolved by settlement. *See Howick v. Experience Hendrix, LLC*, ARB No. 02-049, ALJ No. 2000-STA-32 (ARB Sept. 26, 2002).

Accordingly, **IT IS RECOMMENDED** that the Administrative Review Board **APPROVE** the settlement agreements, which are incorporated by reference, and **DISMISS** the consolidated complaints with prejudice.

So ORDERED this 8th day of April, 2008, at Covington, Louisiana.

A

C. RICHARD AVERY
Administrative Law Judge

NOTICE OF REVIEW: The Administrative Law Judge’s Recommended Order Approving Settlement, along with the Administrative File, will be automatically forwarded for review to the Administrative Review Board, U.S. Department of Labor, Suite S-5220, 200 Constitution Avenue, NW, Washington, DC 20210. *See* 29 C.F.R. § 1978.109(a); Secretary’s Order 1-2002, ¶4.c.(35), 67 Fed. Reg. 64272 (2002).

Within thirty (30) days of the date of issuance of the administrative law judge’s Recommended Order Approving Settlement, the parties may file briefs with the Administrative Review Board (“Board”) in support of, or in opposition to, the administrative law judge’s order unless the Board, upon notice to the parties, establishes a different briefing schedule. *See* 29 C.F.R. § 1978.109(c)(2). All further inquiries and correspondence in this matter should be directed to the Board.